

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MC WINSTON,

Plaintiff,

v.

Case No. 06-C-1080

JODY YOUNG,
SHEILA REILY,
GLORIA BEAL, and
KRISTINE BAEBE,

Defendants.

**ORDER DENYING COUNTY DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
(DOC. # 75) FOR FAILURE TO COMPLY WITH LOCAL RULES**

Defendants Reily, Beal and Baebe (the "county defendants") filed a motion (Doc. # 75) on November 16, 2007,¹ asking this court to grant summary judgment dismissing this pro se civil rights action. The Civil Local Rules provide:

Civil L.R. 56.1 Summary Judgment Motions in Pro Se Litigation

(a) If a party is proceeding pro se in civil litigation, and the opposing party files a motion for summary judgment, counsel for the movant must comply with the following procedure:

(1) The motion must include a short and plain statement that any factual assertion in the movant's affidavit(s) or other admissible documentary evidence will be accepted by the Court as being true unless the party unrepresented by counsel submits the party's own affidavit(s) or other admissible documentary evidence contradicting the factual assertion.

(2) In addition to the foregoing statement, the text to Fed.R.Civ.P. 56(e) and (f), Civil L.R. 56.1, Civil L.R. 56.2, and Civil L.R. 7.1 must be part of the motion.

¹ Defendant Young, a city employee, filed her own motion for summary judgment on October 4, 2007. (Doc. # 63).

(b) This procedure also applies to motions to dismiss brought pursuant to Fed.R.Civ.P. 12(b)(6) or motions for judgment on the pleadings pursuant to Fed.R.Civ.P. 12(c) where matters outside the pleadings are presented to the Court.

Civil L.R. 56.1(a) (E.D. Wis.).

The county defendants' motion for summary judgment contains the "short and plain statement" required by the Civil Local Rules, as well as a copy of the text of Federal Rule of Civil Procedure 56(e) and (f), and Civil Local Rules 56.1 and 7.1. (Doc. #75). However, the county defendants did not include a copy of the text of Civil Local Rule 56.2 which specifies the additional practices that all parties must follow when bringing and responding to motions for summary judgment including the submission of proposed findings of fact.

The record indicates that the county defendants filed their proposed findings of fact but did not notify plaintiff of the consequences of failing to file a response to those proposed findings. See Civil Local Rule 56.2(e) ("In deciding a motion for summary judgment, the Court must conclude that there is no genuine material issue as to any proposed findings of fact to which no response is set out.").

In view of the county defendants' failure to comply with the Civil Local Rules,

IT IS ORDERED that the county defendants' motion for summary judgment (Doc. # 75) is **DENIED** without prejudice. These defendants may renew their motion for summary judgment, without filing a second set of the initial supporting documents, by providing plaintiff with the notice required in the Civil Local Rules within 14 days of this order.

IT IS FURTHER ORDERED that the plaintiff must file a response to such renewed summary judgment motion within 30 days of service of the motion in accordance with Civil Local Rule 56.2.

Dated at Milwaukee, Wisconsin, this 19th day of November, 2007.

BY THE COURT

s/ C. N. CLEVERT, JR.

C. N. CLEVERT, JR.

U. S. DISTRICT JUDGE